



General Assembly

January Session, 2009

Raised Bill No. 1127

LCO No. 4843

04843_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE APPLICABILITY OF CERTAIN STATE
CONTRACTING NONDISCRIMINATION REQUIREMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 4a-60 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2009*):

4 (a) Every contract to which the state or any political subdivision of
5 the state other than a municipality is a party shall contain the
6 following provisions: (1) The contractor agrees and warrants that in
7 the performance of the contract such contractor will not discriminate
8 or permit discrimination against any person or group of persons on the
9 grounds of race, color, religious creed, age, marital status, national
10 origin, ancestry, sex, mental retardation or physical disability,
11 including, but not limited to, blindness, unless it is shown by such
12 contractor that such disability prevents performance of the work
13 involved, in any manner prohibited by the laws of the United States or
14 of the state of Connecticut. The contractor further agrees to take
15 affirmative action to insure that applicants with job-related
16 qualifications are employed and that employees are treated when

17 employed without regard to their race, color, religious creed, age,
18 marital status, national origin, ancestry, sex, mental retardation, or
19 physical disability, including, but not limited to, blindness, unless it is
20 shown by such contractor that such disability prevents performance of
21 the work involved; (2) the contractor agrees, in all solicitations or
22 advertisements for employees placed by or on behalf of the contractor,
23 to state that it is an "affirmative action-equal opportunity employer" in
24 accordance with regulations adopted by the commission; (3) the
25 contractor agrees to provide each labor union or representative of
26 workers with which such contractor has a collective bargaining
27 agreement or other contract or understanding and each vendor with
28 which such contractor has a contract or understanding, a notice to be
29 provided by the commission advising the labor union or workers'
30 representative of the contractor's commitments under this section, and
31 to post copies of the notice in conspicuous places available to
32 employees and applicants for employment; (4) the contractor agrees to
33 comply with each provision of this section and sections 46a-68e and
34 46a-68f and with each regulation or relevant order issued by said
35 commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the
36 contractor agrees to provide the Commission on Human Rights and
37 Opportunities with such information requested by the commission,
38 and permit access to pertinent books, records and accounts, concerning
39 the employment practices and procedures of the contractor as relate to
40 the provisions of this section and section 46a-56. If the contract is a
41 public works contract, the contractor agrees and warrants that he will
42 make good faith efforts to employ minority business enterprises as
43 subcontractors and suppliers of materials on such public works
44 project. Prior to entering into the contract, the contractor shall provide
45 the state or such political subdivision of the state with a written
46 representation to support the nondiscrimination agreement and
47 warranty under subdivision (1) of this subsection for any contract less
48 than fifty thousand dollars, and documentation in the form of a
49 company or corporate policy adopted by resolution of the board of
50 directors, shareholders, managers, members or other governing body

51 of such contractor to support the nondiscrimination agreement and
 52 warranty under subdivision (1) of this subsection for any contract of
 53 fifty thousand dollars or more. The state or political subdivision of the
 54 state may accept a prior resolution of such contractor if the state or
 55 political subdivision determines that the prior resolution provides
 56 sufficient evidence to support the nondiscrimination agreement and
 57 warranty under subdivision (1) of this subsection. For the purposes of
 58 this section, "contract" includes any extension or modification of the
 59 contract, [and] "contractor" includes any successors or assigns of the
 60 contractor, and "marital status" has the meaning set forth in section
 61 46a-51, as amended by this act. For the purposes of this section,
 62 "contract" does not include a contract where each contractor is (A) a
 63 political subdivision of the state, including, but not limited to, a
 64 municipality, (B) a quasi-public agency, as defined in section 1-120, (C)
 65 any other state, as defined in section 1-267, (D) the federal government,
 66 (E) a foreign government, or (F) an agency of a subdivision, agency,
 67 state or government described in subparagraph (A), (B), (C), (D) or (E)
 68 of this subdivision.

69 Sec. 2. Section 4a-60a of the general statutes is repealed and the
 70 following is substituted in lieu thereof (*Effective October 1, 2009*):

71 (a) Every contract to which the state or any political subdivision of
 72 the state other than a municipality is a party shall contain the
 73 following provisions: (1) The contractor agrees and warrants that in
 74 the performance of the contract such contractor will not discriminate
 75 or permit discrimination against any person or group of persons on the
 76 grounds of sexual orientation, in any manner prohibited by the laws of
 77 the United States or of the state of Connecticut, and that employees are
 78 treated when employed without regard to their sexual orientation; (2)
 79 the contractor agrees to provide each labor union or representative of
 80 workers with which such contractor has a collective bargaining
 81 agreement or other contract or understanding and each vendor with
 82 which such contractor has a contract or understanding, a notice to be
 83 provided by the Commission on Human Rights and Opportunities

84 advising the labor union or workers' representative of the contractor's
85 commitments under this section, and to post copies of the notice in
86 conspicuous places available to employees and applicants for
87 employment; (3) the contractor agrees to comply with each provision
88 of this section and with each regulation or relevant order issued by
89 said commission pursuant to section 46a-56; (4) the contractor agrees to
90 provide the Commission on Human Rights and Opportunities with
91 such information requested by the commission, and permit access to
92 pertinent books, records and accounts, concerning the employment
93 practices and procedures of the contractor which relate to the
94 provisions of this section and section 46a-56. Prior to entering into the
95 contract, the contractor shall provide the state or such political
96 subdivision of the state a written representation to support the
97 nondiscrimination agreement and warranty under subdivision (1) of
98 this subsection for any contract less than fifty thousand dollars, and
99 with documentation in the form of a company or corporate policy
100 adopted by resolution of the board of directors, shareholders,
101 managers, members or other governing body of such contractor to
102 support the nondiscrimination agreement and warranty under
103 subdivision (1) of this subsection for any contract of fifty thousand
104 dollars or more. The state or political subdivision of the state may
105 accept a prior resolution of such contractor if the state or political
106 subdivision determines that the prior resolution provides sufficient
107 evidence to support the nondiscrimination agreement and warranty
108 under subdivision (1) of this subsection. For the purposes of this
109 section, "contract" includes any extension or modification of the
110 contract, [and] "contractor" includes any successors or assigns of the
111 contractor, and "marital status" means being single, married as
112 recognized by the state of Connecticut, widowed, separated or
113 divorced. For the purposes of this section, "contract" does not include a
114 contract where each contractor is (A) a political subdivision of the
115 state, including, but not limited to, a municipality, (B) a quasi-public
116 agency, as defined in section 1-120, (C) any other state, as defined in
117 section 1-267, (D) the federal government, (E) a foreign government, or

118 (F) an agency of a subdivision, agency, state or government described
119 in subparagraph (A), (B), (C), (D) or (E) of this subdivision.

120 (b) The contractor shall include the provisions of subsection (a) of
121 this section in every subcontract or purchase order entered into in
122 order to fulfill any obligation of a contract with the state and such
123 provisions shall be binding on a subcontractor, vendor or
124 manufacturer unless exempted by regulations or orders of the
125 commission. The contractor shall take such action with respect to any
126 such subcontract or purchase order as the commission may direct as a
127 means of enforcing such provisions including sanctions for
128 noncompliance in accordance with section 46a-56; provided, if such
129 contractor becomes involved in, or is threatened with, litigation with a
130 subcontractor or vendor as a result of such direction by the
131 commission, the contractor may request the state of Connecticut to
132 enter into any such litigation or negotiation prior thereto to protect the
133 interests of the state and the state may so enter.

134 Sec. 3. Section 46a-51 of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective October 1, 2009*):

136 As used in section 4a-60a and this chapter:

137 (1) "Blind" refers to an individual whose central visual acuity does
138 not exceed 20/200 in the better eye with correcting lenses, or whose
139 visual acuity is greater than 20/200 but is accompanied by a limitation
140 in the fields of vision such that the widest diameter of the visual field
141 subtends an angle no greater than twenty degrees;

142 (2) "Commission" means the Commission on Human Rights and
143 Opportunities created by section 46a-52;

144 (3) "Commission legal counsel" means a member of the legal staff
145 employed by the commission pursuant to section 46a-54;

146 (4) "Commissioner" means a member of the commission;

- 147 (5) "Court" means the Superior Court or any judge of said court;
- 148 (6) "Discrimination" includes segregation and separation;
- 149 (7) "Discriminatory employment practice" means any discriminatory
150 practice specified in section 46a-60 or 46a-81c;
- 151 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
152 60a, 4a-60g, 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, 46a-
153 68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of
154 section 46a-80 or sections 46a-81b to 46a-81o, inclusive;
- 155 (9) "Employee" means any person employed by an employer but
156 shall not include any individual employed by such individual's
157 parents, spouse or child, or in the domestic service of any person;
- 158 (10) "Employer" includes the state and all political subdivisions
159 thereof and means any person or employer with three or more persons
160 in such person's or employer's employ;
- 161 (11) "Employment agency" means any person undertaking with or
162 without compensation to procure employees or opportunities to work;
- 163 (12) "Labor organization" means any organization which exists for
164 the purpose, in whole or in part, of collective bargaining or of dealing
165 with employers concerning grievances, terms or conditions of
166 employment, or of other mutual aid or protection in connection with
167 employment;
- 168 (13) "Mental retardation" means mental retardation as defined in
169 section 1-1g;
- 170 (14) "Person" means one or more individuals, partnerships,
171 associations, corporations, limited liability companies, legal
172 representatives, trustees, trustees in bankruptcy, receivers and the state
173 and all political subdivisions and agencies thereof;
- 174 (15) "Physically disabled" refers to any individual who has any

175 chronic physical handicap, infirmity or impairment, whether
176 congenital or resulting from bodily injury, organic processes or
177 changes or from illness, including, but not limited to, epilepsy,
178 deafness or hearing impairment or reliance on a wheelchair or other
179 remedial appliance or device;

180 (16) "Respondent" means any person alleged in a complaint filed
181 pursuant to section 46a-82 to have committed a discriminatory
182 practice;

183 (17) "Discrimination on the basis of sex" includes but is not limited
184 to discrimination related to pregnancy, child-bearing capacity,
185 sterilization, fertility or related medical conditions;

186 (18) "Discrimination on the basis of religious creed" includes but is
187 not limited to discrimination related to all aspects of religious
188 observances and practice as well as belief, unless an employer
189 demonstrates that the employer is unable to reasonably accommodate
190 to an employee's or prospective employee's religious observance or
191 practice without undue hardship on the conduct of the employer's
192 business;

193 (19) "Learning disability" refers to an individual who exhibits a
194 severe discrepancy between educational performance and measured
195 intellectual ability and who exhibits a disorder in one or more of the
196 basic psychological processes involved in understanding or in using
197 language, spoken or written, which may manifest itself in a diminished
198 ability to listen, speak, read, write, spell or to do mathematical
199 calculations;

200 (20) "Marital status" means being single, married as recognized by
201 the state of Connecticut, widowed, separated or divorced; and

202 [(20)] (21) "Mental disability" refers to an individual who has a
203 record of, or is regarded as having one or more mental disorders, as
204 defined in the most recent edition of the American Psychiatric

205 Association's "Diagnostic and Statistical Manual of Mental Disorders".

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2009</i>	4a-60(a)
Sec. 2	<i>October 1, 2009</i>	4a-60a
Sec. 3	<i>October 1, 2009</i>	46a-51

Statement of Purpose:

To revise state nondiscrimination requirements with respect to certain contracts by: (1) Exempting contracts between government agencies from such requirements, (2) clarifying the documentation requirements, and (3) clarifying certain definitions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]